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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,715	06/23/2003	Jeffrey B. Kallevig	26.2.C94	6911
7590	06/02/2004		EXAMINER	
Fulbright & Jaworski L.L.P. Suite 4850 225 South Sixth Street Minneapolis, MN 55402-4320				PETRAVICK, MEREDITH C
		ART UNIT	PAPER NUMBER	
		3671		

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/608,715	KALLEVIG ET AL.	
	Examiner	Art Unit	
	Meredith C Petrvick	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on \_\_\_\_\_.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-26 is/are pending in the application.

    4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 23 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/29/2003</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "20" on page 3, line 16 and "38" on page 4, line 5. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-7, 10, 16-17, 20, 21, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Tillotson et al. 5,205,112, cited by applicant .

Tillotson et al. discloses a mower deck including:

- a cutting chamber (4 and 5) with a top wall (12), a front wall (Fig. 1), a plurality of side walls (Fig. 1) and a side discharge opening (34)
- a plurality of cutting blades (6)
- a plurality of flow control baffles including a first flow control baffle (20)

The first flow control baffle is selectively movable between a pair of orientations in the cutting chamber (Fig. 1 and 2).

In regards to claim 2, the flow control baffles including a stationary baffle with a semicircular portion (Part of 14 seen in Fig. 1).

In regards to claims 3-4 and 23, a threaded fastener (26) connects the first flow control baffle to the mower deck. A portion of the fastener is accessible at the upper surface of the top wall (Fig. 3).

In regards to claims 5-6, the fastener is received in a slot (28), which defines the range of motion of the first flow control baffle (Fig. 2).

In regards to claim 7, the ear element is considered to be washer (32).

In regards to claims 10 and 25, the first flow control baffle pivots between a pair of orientations (Fig. 1 and 2).

4. Claims 1-2, 10-14, 21-22 and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Schmidt et al. 6,609,358.

Schmidt et al. discloses a mower deck including:

- a cutting chamber (84, 86, 88) with a top wall (26), a front wall (Fig. 3), a plurality of side walls (Fig. 3) and a side discharge opening (67)
- a plurality of cutting blades (90, 92, 94)
- a plurality of flow control baffles (Fig. 5) including a first flow control baffle (102)

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The first flow control baffle is selectively movable between a pair of orientations in the cutting chamber (Fig. 3 and 5).

In regards to claim 2, the flow control baffles including a stationary baffle with a semicircular portion (82).

In regards to claims 10 and 25, the first flow control baffle pivots between a pair of orientations (Fig. 1 and 2).

In regards to claims 11-13 and 26, the first flow control baffle includes a first end proximate the centerline of the mower deck and a second end located proximate the side discharge chute (Fig. 3). The baffle is linear and the cross section is rectangular. This is considered a box-shaped reinforcement structure.

In regards to claims 14 and 22, the mower includes indicia (64, 62) providing information related to the orientations of the first flow control baffles.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-9, 19 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tillotson et al. in view of Foster 5,603,205.

Tillotson et al. discloses the device described above, except that it uses a wing nut instead of a cam lock on the threaded fastener.

Like Tillotson et al., Foster discloses a grass-cutting machine with parts that are pivotable relative to each other. Unlike Tillotson et al., Foster discloses that a cam lock could be used as a suitable locking mechanism (Column 9, lines 52-57).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fastener in Tillotson et al. with a cam lock as taught in Foster as being a convention type of locking mechanism that is suitable for securing pivoting parts.

7. Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tillotson et al. in view of Heisman et al. 5,499,495.

Tillotson et al. discloses the device described in detail above. However, Tillotson et al. fails to disclose providing indicia to provide information about the first flow control baffle's position.

Like Tillotson et al., Heisman et al. discloses a mower with parts that move to different orientations. Unlike Tillotson et al., Heisman et al. teaches providing indicia so that the operator knows the orientation of the parts (Column 5, lines 24-27).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the mower of Tillotson et al. with indicia indicating the position of the first flow control baffle as taught in Heisman et al., in order to facilitate positioning of the baffle by the operator.

*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-308-1113. The fax number for this Group is 703-872-9306.



**Meredith Petravick**  
**Patent Examiner**  
**Group Art Unit 3671**

May 26, 2004